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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1041 OF 2006
IN
SUMMONS FOR JUDGMENT NO.256 OF 2005
IN
SUMMARY SUIT NO.4315 OF 2001

Super Steam Boiler Engineers Pvt. Ltd.).. Plaintiffs

Versus

Sitson India Pvt. Ltd.).. Defendants

Mr.A.B. Salunke i/b.S.Ashwinikumar & Co. for the Plaintiffs.

Mr.P.M. Shah with Mr.A.N. Budge for the Defendant.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 24TH APRIL 2006

P.C.:

. By consent, Notice of Motion taken up for final hearing.

2. The present Motion has been filed for setting aside the ex-parte decree. This Court on 7th October 2005 has decreed the Suit by directing that an amount of Rs.7,03,000/- with interest at the rate of 15% from 3rd February 2001 till payment should be paid by the Defendant.

2. Heard Counsel for the parties.

3. Mr.Salunke appearing for the Plaintiffs vehemently opposes the setting aside of the decree. Since the decree was passed due to the absence of the Advocate for the Defendant, in my view the Defendant should not be made to suffer for the fault of the Advocate. Hence, decree set aside on condition that the Defendant deposits Rs.7,03,000/- within eight weeks from today.

4. If the amount is so deposited, the amount of Rs.3,25,315/- which, according to the Defendant, is admittedly payable to the Plaintiff, may be withdrawn by the Plaintiff.

5. Notice of Motion disposed of accordingly.